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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,926	04/16/2001	John William Holmes	197-1096	5453

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/835,926

Applicant(s)

HOLMES ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 10, 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-13, 16-18 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                           |

**METHOD TO INFER ENGINE COOLANT**  
**TEMPERATURE IN CYLINDER HEAD TEMPERATURE**  
**SENSOR EQUIPPED VEHICLES**

**FIRST OFFICE ACTION**

The present application is a reissue of application 09/037,508.

**DRAWINGS**

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the reference character “40” which is not mentioned in the description.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

“Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**CLAIMS**

**35 U.S.C. § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-8, 11-13, 16-18, and 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Claim 5 sets forth a step of filtering “prior to the step of generating a signal”. However, based on the Applicant’s amendments, claim 1, from which claim 5 depends, no longer generates a signal.

Claim 6 sets forth the step of recording the difference between the claimed temperatures. However, no establishment of a temperature difference has been previously claimed that which may be recorded.

Likewise, claims 7 and 8 set forth storing and decaying the temperature difference respectively, but no establishment of a temperature difference has been previously claimed.

Claim 11 sets forth the step of recording the difference between the claimed temperatures. However, no establishment of a temperature difference has been previously claimed that which may be recorded.

Likewise, claims 12 and 13 set forth storing and decaying the temperature difference respectively, but no establishment of a temperature difference has been previously claimed.

Claim 16 sets forth the step of recording the difference between the claimed temperatures. However, no establishment of a temperature difference has been previously claimed that which may be recorded.

Likewise, claims 17 and 18 set forth storing and decaying the temperature difference respectively, but no establishment of a temperature difference has been previously claimed.

Claims 21 and 22 reference “the calculated engine coolant temperature”. However, only an “inferred” engine coolant temperature has been previously set forth and not a “calculated” temperature.

Claim 23 sets forth the step of recording the difference between the claimed temperatures. However, no establishment of a temperature difference has been previously claimed that which may be recorded.

Likewise, claims 24 and 25 set forth storing and decaying the temperature difference respectively, but no establishment of a temperature difference has been previously claimed.

35 U.S.C. § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The Applicant has amended previously allowed claim 1 by deleting the subject matter therefrom directed to the physical transformation and tangible result of the claimed method.

As such, claim 1 now fails to set forth a “useful, concrete, and tangible result because the claim does not recite any physical transformation or produce a tangible result.

Data transformation or the manipulation of data are not a physical transformation. Data, by definition, is intangible, so the claim must go further to have a tangible result.

Likewise, dependent claims 2-8 fail to set forth any physical transformation or tangible result to the subject matter of claim 1.

However, the Examiner does point out that added dependent claim 19 does set forth a physical transformation and tangible result of the subject matter of claim 1.

Added independent claim 20 fails to set forth a “useful, concrete, and tangible result because the claim does not recite any physical transformation or produce a tangible result for the same reasoning as that of claim 1 above.

The Examiner does point out that added dependent claim 21 does set forth a physical transformation and tangible result of the subject matter of claim 20.

*Allowable Subject Matter*


Claims 9, 10, 14, and 15 have been found to be allowable over the prior art.

**CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall  
Primary Examiner  
Art Unit 2855  
Sep. 26, 2006